

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 4730 OF 2007

DATED: 08-03-2007

Between:

T. Perumallu, S/o. Nadamuni

... Petitioner

And

The Rajahmundry Municipal Corporation,
Rajahmundry, Rep. by its Commissioner
And another

... Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 4730 OF 2007

ORDER:

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The writ petition is misconceived. The first respondent on 08-02-2007 issued a notice to the petitioner under Section 452 of the Hyderabad Municipal Corporation Act, 1955('the Act') r/w Sec.7 thereof (as is applicable to the first respondent Corporation), intimating that the petitioner has executed the construction work in premises bearing Dr.Nos. 86-26-7, 86-26-8, 86-26-5 and 5/2, at V.L.Puram, Rajahmundry contrary to the plan sanctioned in Permit No.200/2006-G1, dated 06-03-2006 to the specified extents.

The deviations pointed out are excess FSI coverage to the extent of 1:052, excess coverage to the extent of 17.12% and conversion of balconies into toilets to the extent of 466.18 square meters. The notice called upon the petitioner to show cause why action be not taken under the provisions of Sec.452 of the Act. The petitioner got issued a legal notice by way of explanation on

14-02-2007 to the respondent, which is essentially evasive and incoherent. Para-I of the notice/explanation states that there are no substantial deviations except minor deviations and that there is no inconvenience either to the neighbours or the residents of the locality or the public and that the minor deviations have been advised by the Vasthu Siddanthi for the welfare of the owners of the building. In Para-II, the petitioner states that the construction is in accordance with the plan approved by the Municipal Corporation and denies the allegation in the first respondent's notice that the construction is in deviation of the approved plan.

Having submitted the explanation through counsel and apprehending action under Section 452 of the Act, the petitioner is before this Court.

This Court discerns no substantive or procedural infirmity in the action proposed by the respondent-Corporation against petitioner under the provisions of Section 452 of the Act. A clear and cogent notice has been issued to the petitioner under Section 452 of the Act. The petitioner has submitted an equivocal, incoherent and evasive reply. It is therefore open to the respondent-corporation to consider the petitioner's explanation and then, it is the discretion coupled with a statutory obligation of the respondent Corporation to act in accordance with the provisions of Section 452 of the Act. The 2nd respondent is a regulator enjoined to ensure compliance of the provisions of the Act by citizens. It has performed its regulatory function impeccably and in accordance with the provisions of Sec.452 of the Act.

No case is made out for interruption of such lawful exercise of power. There are no merits in the writ petition and the same is accordingly dismissed at the stage of admission after hearing the learned counsel for the petitioner and the learned standing counsel for

the respondent Corporation. There shall however be no order as to costs.

GODA RAGHURAM, J.

Dt: 08-03-2007

Rns.